

Quarterly Report
OF THE
ATTORNEY GENERAL
OF
ALABAMA



FOR THE PERIOD
FROM APRIL 1, 1973
THROUGH JUNE 30, 1973

WILLIAM J. BAXLEY, Attorney General

VOLUME 151

**SKINNER PRINTING COMPANY
INDUSTRIAL TERMINAL
MONTGOMERY, ALABAMA**

Q U A R T E R L Y R E P O R T

of the

ATTORNEY GENERAL

of

A L A B A M A

For the Period

From April 1, 1973

Through June 30, 1973

**TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS
OF ALABAMA:**

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from April 1, 1973, through June 30, 1973, is published in compliance with the provisions of Title 55, Section 228, Code of Alabama 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the Circuit Court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. This section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The officer of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

WILLIAM J. BAXLEY

Attorney General

GEORGE L. BECK

Deputy Attorney General

E. RAY ACTON
Executive Assistant

WALTER S. TURNER
Chief Assistant Attorney
General

ASSISTANT ATTORNEYS GENERAL

Kent B. Brunson
Henry H. Caddell
Richard Calhoun
David W. Clark
Don Charles Dickert
Paul T. Gish
Otis J. Goodwyn, Jr.
Leslie Hall
Herbert H. Henry
Leonard G. Kendrick
Randolph G. Lurie
Joseph G. L. Marston, III

Gordon Madison
William A. McKnight
William N. McQueen
George W. Royer, Jr.
Thomas W. Sorrells
Bernard F. Sykes
Barry E. Teague
Myron Herbert Thompson
Donald G. Valeska, II
George M. Van Tassel, Jr.
David Lee Weathers
John D. Whetstone

LEGAL RESEARCH AIDES

Cary L. Dozier
John M. Gruenwald
Winston Lett
Roger Miles Monroe
Samuel L. Webb, Jr.

**ASSISTANT ATTORNEYS GENERAL ASSIGNED TO
OTHER DEPARTMENTS**

**AGRICULTURE AND
INDUSTRIES:**

George O. Miller

CONSERVATION:

William G. O'Rear,
Chief Counsel
Robert A. Macrory
R. Emmett Poundstone, Jr.

**EXAMINERS OF
ACCOUNTS:**

Don E. Lawley
Chief Counsel

FINANCE:

James R. Solomon, Jr.

HIGHWAY:

Lucien L. Smith, Jr.,
Chief Counsel
Edward H. Brogden
Mrs. Julia H. Griswold
Jack F. Norton
Don J. McKinnon

INSURANCE:

Charles H. Barnes
Thomas F. Parker

MENTAL HEALTH:

Robert L. Humphries
Francis P. Ralph

PENSIONS AND

SECURITY:

Mary Lee Stapp,
Chief Counsel
Clyde P. McClendon
Jamie L. Pettigrew
Arthur J. Reed
Carol F. Miller

REVENUE:

Willard W. Livingston,
Chief Counsel
Herbert I. Burson, Jr.
William H. Burton
Philip C. Davis
B. Frank Loeb
James R. Payne

OPINIONS

April 11, 1973

Miss Glenda Hannah

City Clerk

City of Carbon Hill

Carbon Hill, Alabama 35549

Census — Municipalities — Poll Tax and Poll Lists.

The method of preparing a municipal poll list and the methods of taking a municipal census discussed.

Opinion by Assistant Attorney General Gish.

Dear Miss Hannah:

Your request for an official opinion dated March 28, 1973, is as follows:

"We have recently (last year) extended our city limits and would like to know if we could 'legally' take a census or poll list in our town.

"We have in mind getting a group of students or club or some organization to take this and paying them."

There are two methods provided by statute under which a municipal census may be taken. Both methods are controlled by statutes which are now found in Title 37, Chapter 10, Article 3, Code of Alabama 1940, Recompiled 1958.

One method is prescribed by Sections 481, 482, 483 and 484 of said Article 3. This method requires that the census be taken by enumerators who are responsible citizens of the municipality. These enumerators are appointed by the mayor and confirmed by the municipal council. The effect of a census taken by this method is prescribed by Section 483, *supra*. See also Title 37, Section 5, Code of Alabama 1940, Recompiled 1958. Quarterly Reports of Attorney General, Volume 81, page 50 and Volume 82, page 53.

The statute does not specifically provide for compensation for the appointed enumerators. However, you are advised that said statute is sufficiently broad to impliedly grant to the municipality authority to pay such enumerators reasonable compensation for services performed.

The other method prescribed for the taking of a municipal census is controlled by Sections 481(1) and 481(2), Code of Alabama 1940, Recompiled 1958. The statute provides that a municipality may, by ordinance, provide for a census of all persons residing within its corporate limits to be taken by the Bureau of the Census of the United States Department of Commerce. The effect of a census taken

under this statute is not the same as the effect of the census taken by enumerators appointed by the mayor and confirmed by the municipal council. See Quarterly Reports of Attorney General, Volume 95, page 12, Volume 116, page 29, Volume 131, page 8.

In the event that the governing body of the City of Carbon Hill desires to have the proposed census taken by the United States Department of Commerce, it is suggested that you contact the Regional Office of the Bureau of Census in Atlanta, Georgia, to determine the cost of such census and the approximate dates on which the census will be taken.

The preparation of a poll list for any municipal election held within the City of Carbon Hill is controlled by a statute enacted in 1961. Said statute is now found in the Cumulative Pocket Part of Title 37, Chapter 3B, Code of Alabama 1940, Recompiled 1958. We respectfully invite your attention to Sections 34(88) and 34(89) of said Chapter 3B in connection with any question you may have as to the method by which a municipal poll list must be prepared and the municipal officer who is responsible for the preparation of such poll list.

We have limited this opinion to the questions specifically presented by your request. If you have other questions concerning the proposed census, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

June 21, 1973

Mr. Ruben K. King, Commissioner

State Department of Pensions and Security

Administrative Building

64 North Union Street

Montgomery, Alabama

State Department of Pensions and Security — Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Exemption of payments received under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, 84 Stat. 1894, 42 U.S.C.A. §4601, from consideration under homestead limitation regulation of State Board of Pensions and Security

does not preclude application of such limitation under different circumstances.

Opinion by Assistant Attorney General Carol F. Miller.

Dear Sir:

Your request for a formal opinion is as follows:

"Will you please give me your formal opinion on the following matter?

"In accordance with the provisions of Title 49, Code of Alabama 1940, Recompiled 1958, the rules and regulations promulgated by the State Board of Pensions and Security provide specific criteria for eligibility for old age pension and other federally assisted programs administered by this Department. Under these regulations there is a limitation on the assessed value of the homestead which an applicant or recipient can own and remain eligible for assistance. The limitation is found in **Manual for Administration of Public Assistance**, Part I, beginning on page III-11. It reads in part as follows:

"OAP, APTD, ADC, TA — \$2500 net value for a person, married couple living together, or in ADC and TA, a family.

"Net value is assessed value less mortgages, liens, or notes properly executed in writing at the time of transaction."

"My questions relate to the application of certain provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, 84 Stat. 1894, 42 U.S.C.A. §4601, et seq. (hereinafter referred to as P.L. 91-646) to the above homestead limitation. The questions arise because some recipients of public assistance have been displaced involuntarily from their homes and have been relocated, receiving funds under P.L. 91-646 to purchase replacement homes. In a number of instances the assessed value of the replacement home acquired with the relocation funds has exceeded the \$2500 limitation. However, P.L. 91-646 provides in part as follows:

"Payment not to be considered as income. — No payment received under this title [42 USCA §§ 4621-4639] shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law. (Jan. 2, 1971, P. L. 91-646, Title II, §216, 84 Stat. 1902)" 42 U.S.C.A. § 4636.

"My questions are:

- "1. Whether this Department can consider persons eligible for public assistance who would be eligible except for the assessed

value of their homestead exceeding \$2500, the homestead having been acquired with funds received under P.L. 91-646, and

- "2. If so, will it be possible for the Department to continue applying the homestead limitation regulation to other recipients of public assistance while exempting from its application the recipients whose homes were acquired with funds received under P.L. 91-646?"

My answer to each of your two questions is in the affirmative. In P.L. 91-646, Title II, § 201, 84 Stat. 1895, 42 U.S.C.A. § 4621, the Congress states its purpose as follows:

"The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole." P.L. 91-646, Title II, § 201, Jan. 2, 1971, 84 Stat. 1895, 42 U.S.C.A. § 4621.

The Congressional intent is further indicated in the Legislative history of P.L. 91-646, reported in 1970 U.S. Code Congressional and Administrative News, p. 8290.

Section 4636 requires that payments under the Act not be considered as income "for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act . . ." This provision specifically includes the programs which the Department of Pensions and Security administers pursuant to the Social Security Act and in accordance with applicable State law. Excepting from consideration the payments received by public assistance recipients under P.L. 91-646 would not otherwise affect your Department's policy regarding a homestead limitation. If persons purchasing replacement homes with payments under the federal legislation were adversely affected by becoming ineligible for federally assisted public welfare benefits, the purpose of P.L. 91-646 as stated therein would be defeated. The effect of the legislation is to create an exception to the homestead limitation policy, while not otherwise abrogating that policy. Therefore, it is my opinion that you are authorized to disregard funds received by public assistance applicants and recipients under P.L. 91-646 and which are used by them to purchase replacement housing having a net value in excess of the homestead limitation regulation of the State Board of Pensions and Security. It is my further opinion that such a disregard would not affect the application of the homestead limitation in other circumstances.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

April 30, 1973

Honorable Paul E. Ketcham

Mayor, City of Demopolis

Demopolis, Alabama

City Boards of Education — Municipalities — Public Officers.

1. The term of office of members of the City Board of Education begins to run from the date of their election or appointment in April.

Opinion by Assistant Attorney General Madison.

Dear Mr. Ketcham:

Your request for an official opinion of this office dated March 28, 1973 is as follows:

"In Section 152, Title 52 Code of Alabama the law clearly states that City school board members are to be appointed during the month of April, and that these terms shall be five years. The Code of Alabama does not specifically state when these members begin their term of office.

"The problem in the City of Demopolis is that for many years past, the members of the City school board have been appointed during the month of October and have begun their term at the November meeting.

"My questions now are: (1) Should a member appointed in April begin his term in April, May, November, or what month? (2) If the term begins in April, May or any month prior to November, then how can the previous member serve the full five years so designated in Section 152?

(3) How legal or binding is a letter from the City Clerk to a school board member that states that the school board member's term begins in November and ends five years later in November?

"In Section 154 of Title 52 the law states that 'The City Board of Education shall hold it's annual meeting each year at its first regular meeting in May following the election of said board or any member thereof.' This passage could possibly be interpreted to mean the newly elected member should begin his term during the first meeting of the month of May, but again this could be argumentative.

"I have discussed this problem over the phone with you previously when it specifically concerned State Representative Richard S. Manley. I am of the opinion that he was removed illegally but he did not wish to pursue the matter. My con-

cern now is with the four remaining members. I hope they are allowed to serve their terms with dignity and without further embarrassment to them or to the City of Demopolis."

Title 52, Section 152, Code of Alabama 1940, Recompiled 1958, provides, in pertinent part, as follows:

"Annually at the regular meetings of the city council or commission in April the said council or commission shall elect a member or members of the board of education to succeed those whose term or terms of office expire that year. . . ."

Title 52, Section 154, Code of Alabama 1940, Recompiled 1958, in pertinent part, provides:

"The city board of education shall hold its annual meeting each year at its first regular meeting in May following the election of said board or any member thereof. . . ."

The terms of office are for a period of five years, Section 152, supra, but the statutes are silent as to when the term of office begins. In this situation the general rule is that the term begins to run from the date of the election or appointment. 63 Am. Jur. 2d, Section 151, page 722; **Prowell vs. State**, 142 Ala. 80, 39 So. 164; Opinion dated April 10, 1968 to Honorable Jimmy Day, Mayor, City of Huntsville.

The term runs for a period of five years then from the date of the election or appointment at the April meeting.

There is no legal way for the members or any one of them to serve for a period of five years from the November meeting. The month of October is not the correct time for making the appointments and November is not the month for their terms of office to begin. They should have been appointed and started their terms also in April.

The letter from the City Clerk, referred to in your request, is of no force and effect, but I am sure it was sent in good faith.

Your situation is to be regretted but there are other city school systems who have likewise found themselves in somewhat similar positions.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

May 11, 1973

Honorable J. Wagner Finnell
City Attorney

City of Tuscaloosa

Tuscaloosa County

Post Office Box 2089

Tuscaloosa, Alabama 35401

Municipalities — Streets — Zoning.

1. A municipal planning commission may not approve a subdivision of territory unless the map thereof shows a dedication of public streets.
2. No building permit may be issued by a municipality for a subdivision of territory unless the map thereof shows a dedication of public streets.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an official opinion dated December 15, 1972, is as follows:

"The City of Tuscaloosa requests your opinion in regard to subdivision regulations which would permit private streets under certain conditions.

"Section 802 of Title 37 of the Code of Alabama reads as follows:

"From and after the time when a planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, no building shall be erected on any lot within such territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to that time, or unless such street corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the planning commission or with a street on a street plat made by and adopted by the commission or with a street accepted by council, after submission to the planning commission, by the favorable vote required in section 801 of this title. Any building erected in violation of this section shall be deemed an unlawful structure, and the building inspector or other appropriate official may cause it to be vacated and have it removed. (1935, p. 1126.)

"The City's Planning Commission has under consideration regulations which, subject to rather detailed controls, would permit private streets to be constructed to serve either a Planned

Unit Development or a Condominium type development.

"Under the Planned Unit Development a number of individual dwelling units would be constructed and a corporation would be formed which would own all of the land abutting the street and also of the common areas within the development. When a unit is sold the buyers in the Planned Unit Development would own, in-fee, only the unit in which he lives and the grounds on which the unit is situated. The corporation (in which each owner would own stock) would own all of the streets and the common areas. Elected or appointed corporation offices would be authorized to maintain the same and to charge each owner a pro rata part of the costs, for such maintenance.

"The Condominium type development would be essentially the same except that all of the streets and common areas would be held in equal parts by owners of the units, as tenants in common.

"The proposed subdivision regulations would of course require approval of such a project by the Planning Commission and so limit its use that reasonable access would not be blocked within the community etc.

"Our question is, does section 802 of title 37, which is set out above, prevent the approval of such a development by the Planning Commission and does said section prevent the issuance of building permits within the development unless the street therein is dedicated as a public street?

"It is our thought that such a development bears close similarity to apartment complexes under a single ownership which have in the past been built and approved without platting or designating the access streets as public streets."

The questions presented by your request involve the requirement that a subdivision of territory within the municipality contains public streets.

The regulation of municipal subdivision is vested in the municipal planning commission by Title 37, Chapter 16, Article 3, Code of Alabama 1940, Recompiled 1958. The authority of such planning commissions regarding such subdivision regulations is contained in Sections 797 through 803, Code of Alabama 1940, Recompiled 1958.

Section 802 of said Article, which is quoted in your request, requires that public streets be dedicated and be shown on the subdivision plat approved by the municipal planning commission in order that streets may be constructed, maintained and used and in order that building permits may be granted by the municipality. **Oliver et al. vs. Water Works & Sanitary Sewer Board, et al.**, 261 Ala. 234, 73 So. 2d 552.

In order to create a street there must be not only a dedication of the right-of-way but an acceptance thereof by the municipality. See Title 56, Section 15, Code of Alabama 1940, Recompiled 1958. Such acceptance by the municipality requires more than the mere approval by its planning commission of the subdivision plat. The acceptance must be shown by a resolution of the municipal governing body or by acts and conduct of municipal authorities recognizing the acceptance of a dedicated street.

While we are aware of the problems involved in the creation of public streets in Planned Unit Developments and Condominiums, you are advised that the statutes cited hereinabove control subdivisions of territory regardless of the fact that the entire territory is jointly owned or is owned by a corporation. To hold otherwise would not only violate Section 802, *supra*, as well as other portions of Article 3, *supra*, but would allow the future vacation of private streets or ways without the consent of the municipality and would place a cloud upon municipal powers regarding police and fire protection, garbage service, and other municipal functions requiring the use of public streets.

Therefore, you are advised that the Planning Commission of the City of Tuscaloosa has no authority to approve subdivisions of territory within the municipal corporate limits where Planned Unit Developments or Condominiums are proposed unless the plat of each subdivision shows the streets, alleys or other public ways which will be located within the territory subdivided. You are further advised that the City of Tuscaloosa may not issue building permits within the territory subdivided unless public streets have been dedicated and accepted.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

May 29, 1973

Ms. Sarah B. Jackson, Chairman

Board of Registrars

Montgomery County Court House

Montgomery, Alabama 36104

Elections — Absentee Voting — Voters — Board of Registrars.

1. The absentee voting requirements found in U.S.C.A., Title 42, Section 1973 aa-1 (Federal Voting Rights Act of 1965, as amended in 1970) are the only requirements neces-

sary to vote absentee for the United States President and Vice-President.

2. The requirements necessary to vote absentee for all non-presidential officials are found in appropriate State law.

Opinion by Assistant Attorney General Thompson.

Dear Ms. Jackson:

I have received your letter of March 5, 1973, concerning Mr. Peter A. Hiebel's application to vote absentee and have treated it as a request for an opinion on the requirements for voting absentee in the State of Alabama. Your letter is as follows:

"I am enclosing a copy of a letter I have received from Peter A. Hiebel. I have written him on several occasions telling him he cannot be put on the absentee list in Montgomery County because by Alabama law only persons eligible to vote by absentee mail are service personnel and college students and their spouses. He does not seem to understand what I am saying.

"Will you please write Mr. Hiebel and try to explain to him why he cannot be put on the absentee voting list?"

And Mr. Hiebel's letter reads as follows:

"It is my understanding that I am eligible to vote absentee in national elections regardless of the laws for absentee voting of the various states. I assume that there must be some list that I am placed on for the ballot to be mailed.

"It is also beyond my understanding to imagine why I, a person raised in Montgomery, Alabama, who goes to work for the Federal government and is shipped overseas, cannot vote in his home town. When I was transferred overseas, I was required by the Federal government to sign a form stating Montgomery, Alabama, as my legal residence. If I die or I am fired while overseas, all of my property is returned to Montgomery. As well as if anything happens to me, my will will be probated under Alabama law.

"It is obvious that it is not worth coming to Montgomery 30 days before an election to vote absentee since I might as well just fly up and vote. However, since the cost of my wife and I flying to Montgomery is over \$550, it makes voting a rather expensive privilege. Could you possibly instruct me of the official or legislative official who would have the power to rescind this law or introduce legislation to change it. Since it would appear that I will be here for some years as well as possibly other places overseas, I wish to be allowed to vote.

I feel compelled to take whatever action is necessary to encourage someone to change the law in order that persons such as myself can vote."

There are now two statutes which apply to voting rights: One is the Alabama Election Law (in particular Title 17, Section 64 (15)-(34), Code of Alabama 1940, Recompiled 1958) and the other is the Federal Voting Rights Act of 1965, as amended in 1970 (in particular U.S.C.A., Title 42, Section 1973 aa - 1). The 1970 amendments to the 1965 Federal Voting Rights Act provide for uniform requirements on absentee voting and registration for Presidential and Vice-Presidential elections. These federal rules supersede any state requirements on absentee voting and registration for President and Vice-President.

The effect of the 1965 Federal Voting Rights Act as amended in 1970 is that there are now two sets of requirements for absentee voting and registration. The first set of requirements concern absentee voting and registration for President and Vice-President and are found in the 1965 Federal Voting Rights Act as amended in 1970. The second set of requirements concern absentee voting and registration for all other officials and are found in appropriate state law.

Returning to the issue posed in your letter, the requirements for voting absentee in Presidential and Vice-Presidential elections were clearly defined and distinguished from those for all other elections in the federal case of **Prigmore vs. Renfro**, Civil No. 72 - 713 (U.S.D.C. N. Ala., Sept. 29, 1972), which was affirmed by the United States Supreme Court at 41 U.S.L.W. 3446 (U.S., Feb. 20, 1973). In **Prigmore**, the court held that:

1. A person may qualify to vote absentee for United States President and Vice-President if they are
 - a. duly qualified residents of such state;
 - b. may be absent from their election district or unit in such state on the day such election is held; and
 - c. have applied not later than seven days immediately prior to such election and have returned such ballots to the appropriate officials of such state not later than the time of closing of the polls in such state on the day of such election.

These absentee voting requirements are the only ones that may be required by a state to vote for President and Vice-President under the Federal Voting Rights Act.

2. A person may vote absentee for non-Presidential, state, local, and any other similar offices only if the person meets the Alabama absentee voting requirements.

Therefore, if someone meets the above three absentee voting requirements under the Federal Voting Rights Act for President and Vice-

President, he must be allowed to vote absentee for President and Vice-President even if he does not qualify to receive and cast absentee ballots under Alabama law. In order to vote for any other offices, the absentee voting requirements of Alabama must be met.

The Court in **Prigmore** outlined certain procedures which must be followed in applying for and receiving absentee ballots for Presidential and Vice-Presidential elections. These procedures are:

"Any person (qualified under 1965 Voting Rights Act as amended in 1970) may apply for an absentee ballot for the Presidential and Vice-Presidential elections by appearing in person, no later than seven days prior to the election, at the office of the Register of the Circuit Court in the county of residence of the applicant. The Register, or his or her agent, will provide the applicant with a form application for an absentee ballot for the Presidential and Vice-Presidential election. Upon the completion of that form and the sworn statement before the Register or agent as to the truth of the facts stated in said form, the Register will provide the applicant with an absentee ballot. That absentee ballot must be returned to the Register by mail or otherwise prior to the closing of the polls on election day.

"Any person (qualified under the 1965 Voting Rights Act as amended in 1970) may apply for an absentee ballot by mail by making written request to the Register of the Circuit Court of the applicant's residence no later than seven days prior to the election. Upon receiving such a written communication from an applicant, the Register will mail immediately, but in any event within two days excluding Saturdays, Sundays and legal holidays, a form application for absentee ballot. Upon the return of said application, properly filled out and sworn to, the Register will immediately, but in any event within two days, excluding Saturdays, Sundays and legal holidays, send an absentee ballot to said applicant. The absentee ballot must be returned and received in the office of the Register no later than the closing of the polls on election day.

"Under either procedure outlined above, if the applicant has completed all steps except receiving an absentee ballot, but the Register has not received the official absentee ballots, then the Register will make said ballots available immediately upon receiving them or if requested, the absentee ballot will be mailed immediately thereafter, or, in any event, within two days excluding Saturdays, Sundays and legal holidays after the receipt of said ballots.

"In order to assure an orderly and uniform procedure for absentee voting throughout the State, the sample application for absentee ballot and sample affidavit to be printed on the ballot attached hereto are approved. The Attorney General

will provide (the registrars) with a sample form application to be used in determining the qualifications of absentee voters under this order and a sample form of affidavit to be printed on the absentee ballots.

"In the event that either an application form or an absentee ballot must be sent to applicant in another country the said document will be mailed airmail by the Register.

"It is the duty of the . . . (registrars) to act in good faith in following the procedures. . . . Nonetheless, it is also the duty of applicants to act expeditiously in seeking both application forms and absentee ballots. If the (registrars) have acted in good faith and have complied with this order and yet there is not time to complete the procedure and for the ballot to be received prior to the closing of the polls on election day, then the responsibility for the loss of vote is that of the applicant."

Attached to this letter are the court approved sample application for an absentee ballot and sample affidavit to be printed on the ballot.

In light of the new federal law and the **Prigmore** case, I think that Mr. Hiebel's request to vote absentee for President and Vice-President should be reconsidered.

Sincerely,

WILLIAM J. BAXLEY
Attorney General

May 24, 1973

Honorable Oliver E. Young, Jr.

Town Attorney

Town of Vernon

Lamar County

Post Office Box 648

Vernon, Alabama 35592

Appropriations — Health and Health Department
— Hospitals — Municipalities.

A municipality may not make an unrestricted appropriation of funds or property to its Medical Clinic Board.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an opinion dated April 21, 1973, is as follows:

"We are attorneys for the Town of Vernon, Alabama, and as such would like your opinion on the following question:

"May a City legally make a donation of funds or property to a Medical Clinic Board organized pursuant to Act No. 516, Regular Session of the Legislature of 1955, said Act also being codified in Title 37, Sections 853-863, as amended?

"If your answer to the foregoing question is in the affirmative, would the fact that a lease of property owned by the Medical Clinic Board to an individual or corporation providing the services contemplated in the act, had in it a provision that such person or corporation might purchase the property after all indebtedness was paid, at less than the then market value, change your opinion to the negative?"

The Medical Clinic Board of the Town of Vernon was created under and is controlled by the statutes now codified as Title 37, Chapter 19, Code of Alabama 1940, Recompiled 1958.

Your attention is respectfully invited to the opinion of the Supreme Court of Alabama in the case of **City of Huntsville, et al. vs. Morring**, 284 Ala. 678, 227 So. 2d 578. This case was decided in 1969, subsequent to the latest statute amending Chapter 19, *supra*. The Court held that a municipal medical clinic board and the hospital which was built and leased to a private corporation was not a "municipal use" within the meaning of the Zoning Ordinance of the City. This case, of course, does not control the question here presented; however, said case does discuss in some detail the authority of a board created under Chapter 19, *supra*.

In the **Morring** case, *supra*, the Court recognized that the purpose of the provisions of Chapter 19, *supra*, is to provide public agencies to promote the acquisition of health facilities for the promotion of public health. However, the Court's opinion discusses the fact that it was considering a case where the health facilities were leased to a private corporation and that such lease was authorized under the provisions of the statute.

It appears that the statutes here considered express a legislative intent to provide a way in which medical facilities could be built, equipped and furnished for lease to either private or public organizations for operation without creating an obligation or debt of the municipality. Said Chapter 19 does not make any restriction as to whom the facilities of the board may be leased.

In the light of the above discussion, you are advised that the Town of Vernon may not make an unrestricted appropriation as contemplated by your request.

It should here be stated that, under certain factual situations, an appropriation by a municipality to a board of the type here considered may be authorized. In this connection, Title 22, Section 190, Code of Alabama 1940, Recompiled 1958, authorizes a municipal appropriation for the care of indigent, sick or wounded persons. We will advise regarding a restricted appropriation for the benefit of indigent persons when we are presented facts which specifically raise this question.

Your problem differs from the one considered in Quarterly Report of Attorney General, Volume 119, page 37, in which we approved a municipal contribution of funds to the industrial development board of the municipality. In said opinion we cited a number of authorities which specifically grant to a municipality the power to promote industrial development of the city or town and surrounding territory. There are no statutes which similarly grant to a municipality the power to promote health.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

May 25, 1973

Honorable George E. Clark, D. P. M.

President, State Board of Podiatry

2012 Eighth Court, South

Birmingham, Alabama 35205

Podiatrists — Insurance

Under existing laws governing non-profit corporations for establishment of a hospital plan, benefits cannot be paid in cases where subscriber to the plan receives medical or surgical treatment of a local ailment of the foot from a duly licensed podiatrist.

Opinion by Assistant Attorney General Clark.

Dear Dr. Clark:

Your request for an official opinion dated March 13, 1973, is as follows:

"In my capacity of President of the State Board of Podiatry, I request an official opinion regarding the following matter. Is a non-profit corporation established under the provisions of Article 3, Title 38, Code of Alabama, for the purpose of

providing a hospital service plan prohibited by law from paying benefits in cases where a subscriber to the plan receives medical or surgical treatment of a local ailment of the foot from a duly licensed podiatrist?"

Title 28, Section 308, Code of Alabama 1940, as amended, provides in part as follows:

"... Such contracts may provide for more than one class of service or benefits, and shall designate the person or persons, or the class of persons, entitled thereto, shall designate the hospitals which render the service provided for, and shall specify the charge or dues required to be paid for such service or benefits. Such contracts or certificates shall also provide that any doctor may be selected by the holder thereof to treat him while a patient in the hospital provided the doctor selected is a reputable doctor and eligible for membership in his county medical society. No such corporation shall issue or sell any contract until the same shall have been approved in writing by the superintendent of insurance."

Title 46, Section 297(22p), Code of Alabama 1940, as amended, defines "podiatry" as the diagnosis and treatment of disorders of the human foot and "practice of podiatry" as the diagnosis and medical or surgical or mechanical or manipulative or electrical treatment of any local ailment of the human foot.

Title 46, Section 297(22ff), Code of Alabama 1940, as amended, provides as follows:

"Nothing in this article shall be construed as authorizing any podiatrist to practice or claim to practice medicine or surgery, or to use any title or appellation intended to indicate the practice of medicine. And nothing in this article shall be construed as applying to physicians, surgeons, or persons authorized to practice the healing arts as otherwise provided under the laws of the state of Alabama. No person who qualifies for a certificate or license under this article shall be subject to examination by the state board of medical examiners."

The Supreme Court of Alabama in **State Licensing Board for Healing Arts vs. Alabama Board of Podiatry**, 249 So. 2d 611, held that a podiatrist could prescribe medicine to discourage infection, to abate swelling and alleviate pain resulting from the treatment of a local disease of the foot, whether such medicine is taken internally or applied externally.

At the present time, podiatrists are not eligible for membership in their respective county medical societies. This, of itself, would prohibit payment under the hospital service plan under Article 3, Title 28, Code of Alabama 1940, as amended. Further, podiatrists are forbidden, under Section 297(22ff), to practice medicine, except in the instances previously set out in the case cited.

In my opinion, under the existing laws governing non-profit corporations for establishment of hospital plan, such non-profit corporation would be prohibited by law from paying such benefits in cases where the subscriber to the plan receives medical or surgical treatment of a local ailment of the foot from a duly licensed podiatrist.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

May 23, 1973

Hon. Ben Stokes

House of Representatives

Mobile County

Post Office Box 293

Mobile, Alabama

Taxation — Courts — Constitutional Laws — Costs
and Fees.

1. The "Fair Trial Tax" is applicable in all courts in all cases except municipal courts where the case is one for violation of a municipal ordinance which is not also a violation of State law.
2. The "Fair Trial Tax" is a tax and no constitutional defect is noted.

Opinion by Assistant Attorney General Sykes.

Dear Sir:

Your request for an official opinion bearing date of April 27, 1973 is as follows:

"Re: Title 11, Section 83(1), Fair Trial Tax

"Please refer to the above provision of law which appears in the 1971 Cumulative Pocket Part of the Code. I would appreciate your opinion as to whether or not the Fair Trial Tax thereby imposed applies to courts which are inferior to circuit courts and in particular, to the Court of General Sessions of Mobile County, Alabama, which was created by Act No. 40, S.4, Second Special Session of 1956 and if so, whether or not this court cost item of \$2.00 per case for the purpose of pro-

viding for expenses for defending indigent defendants, is constitutional."

Your inquiry asks whether or not the "Fair Trial Tax," provided for in Act No. 2421, Acts of 1971, page 3853, approved October 1, 1971 (Title 11, Section 83(1), Code of Alabama, Recompiled 1958, 1971 Cumulative Pocket Part), is applicable to the Court of General Sessions of Mobile County, which was created by Act No. 40, Second Special Session 1956. You also ask whether said tax of \$2.00 per case, which is appropriated to pay certain expenses attending the trial of indigents, is constitutional.

In my opinion, the "Fair Trial Tax" is applicable to cases docketed in the Court of General Sessions of Mobile.

Act No. 2421, supra, levies the fair trial tax of \$2.00 "upon each and every criminal or quasi-criminal case and every suit at law or in equity docketed in any court created by authority of the constitution or other laws of the State of Alabama."

Since all Alabama courts and all cases fall into the above descriptions, it is my opinion that the Court of General Sessions of Mobile County is included.

The only exception to the applicability of the "Fair Trial Tax" in the State court system are those cases in recorders or municipal courts where the offense charged is a violation of a municipal ordinance, which ordinance is not also a violation of a State law. If the violation of the ordinance is also a violation of State law, the Fair Trial Tax is applicable in such recorder or municipal court.

In my opinion, this levy is a tax, collectible as court costs, and I find no constitutional objection. Cf. Title 51, Section 20, Code of Alabama, Recompiled 1958.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

June 13, 1973

Mrs. Woodrow H. Barnes

Judge of Probate

Tallapoosa County

Dadeville, Alabama 36853

Municipalities.

Method of reinstating dormant municipal corporation which was created by local legislation on January 25, 1843, discussed.

Opinion by Assistant Attorney General Gish.

Dear Mrs. Barnes:

Your request for an official opinion dated April 27, 1973, is as follows:

"A petition has been filed with this office by the citizens of the community of Goldville situated in Tallapoosa County, Alabama, requesting me as Judge of Probate to reactivate the town of Goldville and appoint a Mayor and Council. A copy of said petition is attached hereto.

"Goldville was incorporated by the Legislature of the State of Alabama on January 25, 1843. I am also enclosing a copy of the Act of the Legislature granting said incorporation. Since that time, the municipality of Goldville has become dormant.

"Your opinion is respectfully requested as to the following questions:

"1. Has Act No. 85, Acts of the Legislature of Alabama, 1843 incorporating the town of Goldville ever been amended or repealed?

"2. If your answer to question No. 1 is in the negative, what is the procedure I, as Judge of Probate, should follow in the handling of said petition for re-activating the municipality of Goldville and for appointing officials for the municipal government.

"For your information, Goldville has great historical significance to the entire State of Alabama, it having been the site of one of the largest gold fields in the State. It is reputed to have been the largest municipality in the State at the time of its first incorporation, having had a population of 3500 people in the 1840's."

Act No. 85, enacted on January 25, 1843, reads as follows:

"Section 1. Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened, That the town of Goldville in Tallapoosa County, shall be and is hereby incorporated, in and under the name of the town of Goldville, and the corporate limits of said town shall extend one half mile in every direction from the centre of said town, or that portion of it reserved as the public square. "Sec. 2. And be it further enacted, That James A. Barr, Lawrence Gahagan, Toliver L. Austin, William Rodgers, G. W.

Crawford, and John S. Carr, or a majority of them, be and they are hereby appointed commissioners, for the organization of said town, whose duty it shall be to hold an election for five town commissioners for said town, on the first Monday of March next.

"Sec. 3. And be it further enacted, That every free white male inhabitant, who, on the first day of March next, may reside in the limits of said town, over twenty-one years of age, shall be entitled to vote in said election for town commissioners, and that the five commissioners as elected shall hold their office for twelve months, and elect from their own body, an Intendent, whose duty it shall be to preside over the meetings of said board.

"Sec. 4. And be it further enacted, That said commissioners so elected, shall have power to fill all vacancies that may occur by death, resignation, or removal, and to elect a Secretary for the recording of all proceedings of said meeting, and a town Marshal, whose duty it shall be to execute all process issued by the said Intendent.

"Sec. 5. And be it further enacted, That said commissioners shall have power to pass all laws and ordinances for the better regulation of said town, not repugnant to the laws and Constitution of the State of Alabama, or of the United States.

"Approved, 25th January, 1843."

Our research reveals no subsequent legislation specifically or impliedly amending or repealing Act No. 85, *supra*. In this connection, we gratefully acknowledge the assistance of the staff of the Legislative Reference Service of this State. Further, we have found no judicial proceeding dissolving or attempting to dissolve the municipal corporation to which you refer.

Under our present constitutional and statutory provisions, all municipal corporations and their forms of government must be controlled by general legislation, however, such legislation recognizes the existence of municipalities organized by special legislative Acts which became effective prior to the adoption of constitutional prohibitions against such special legislation. See Title 37, Section 1, Code of Alabama 1940, Recompiled 1958.

The creation and dissolution of municipalities is now controlled by Title 37, Chapter 2, Code of Alabama 1940, Recompiled 1958.

Article 2 of said Chapter 2 which applies to dissolution of municipalities contains those statutory provisions which constitute grounds for such dissolution. However, the forfeiture of a municipal charter must be determined by judicial decree. See Section 21, of said Article 2, as amended by Act No. 660, Acts of Alabama 1965, page 1184. The mere non-use of corporate powers does not dissolve a municipal corporation. Biennial Report of Attorney General 1936-38, page 265.

Section 16 of Chapter 2, *supra*, reads as follows:

"Towns or cities that have permitted their organization to become dormant and inefficient may, by a petition of a majority of the taxpayers of such town or city to the probate judge, have their corporate organization reinstated by an order of the probate judge, entered of record, and thereupon he shall appoint a mayor and councilmen for such town or city, who shall hold their offices until the next regular election thereafter, and until their successors are elected and qualified."

Premises considered, you are advised that you possess the statutory authority to reinstate the corporate powers of the Town of Goldville by following the procedure prescribed by Section 16, *supra*. For a comprehensive discussion of said procedure, we respectfully invite your attention to the authorities annotated under said Section 16. You are further advised that after you have reinstated said Town of Goldville you have the duty and authority to appoint a Mayor and five Councilmen who will become the governing body of the Town of Goldville and will hold their offices until the next general municipal election in 1976. See Title 37, Section 404, Code of Alabama 1940, Recompiled 1958.

We trust that the opinion expressed herein answers both questions presented and furnishes you the desired information. If you need further advice, please let us know.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

June 20, 1973

Hon. A. W. Steineker, Jr.

Chief Examiner

Department of Examiners of Public Accounts

C A P I T O L

Clerks — Costs and Fees.

Clerks' fees, where *nolle prosequi* is entered at preliminary hearing, are not payable from fine and forfeiture fund of the county.

Opinion by Assistant Attorney General Sykes.

Dear Sir:

You have inquired of this office whether or not the Clerk of the

Inferior Court of Coffee County, who is also the Ex officio Clerk of the Inferior Court of Coffee County (Act No. 905, Acts 1969, page 1629), may collect a fee from the fine and forfeiture fund of the county for a preliminary hearing of a felony case that is nolle prossed.

In my opinion said clerks' fees cannot be collected from the fine and forfeiture fund of the county.

The act creating the inferior court, supra, provides in Section 9(a) thereof:

"The fees of the clerk and of the sheriff, in amounts provided herein, in criminal cases, if the state fails to convict or if the state fails to pay, or where a nolle prosequi is ordered, or where the case is abated by the death of the defendant, or where execution is returned 'no property found' shall be paid by the county as in circuit court. . . ."

The inferior court does have jurisdiction to exercise preliminary jurisdiction in felony cases: Section 2(b), Act No. 905, supra. In criminal cases the clerk is entitled to the same fees as now or hereafter allowed by law to be taxed and collected in such cases in the circuit court. Section 8, Act No. 905, supra.

The fee claimed is that provided for circuit clerks in Title 11, Section 89, Code of Alabama, Recompiled 1958, which is, "for each felony case nolle prossed or otherwise dismissed, ten dollars."

The lists of officers' claims payable from the county fine and forfeiture fund is found in Title 15, Section 393, and Title 11, Section 83, Code of Alabama, Recompiled 1958. These are the sections referred to by Sections 8 and 9(a) of Act No. 905, supra. Section 9(a), supra, lists the same claims as those in Sections 393 and 83(b), supra. In providing for payment of officers' fees claimed from the fine and forfeiture fund section, Title 11, Section 83(b) provides for payment:

"... in all trials in the circuit court, or county court, or court of like jurisdiction. . . . where the state fails to convict, or the indictment abates or is nolle prossed or withdrawn and filed. . . ."

Clearly, in the cases of nolle prosequi to which the statute refers and in which officers' fees are payable from the fine and forfeiture fund are cases where an **indictment** is nolle prossed and not a "nolle pros" entered or ordered at a preliminary hearing where there is no indictment and no trial in the sense used in Section 83(b), supra. **Kilgore v. Swindle**, 219 Ala. 387, 122 So. 333.

In my opinion, therefore, such clerks' fees at preliminary hearings are not payable from the fine and forfeiture fund.

Very truly yours,

WILLIAM J. BAXLEY
Attorney General

I N D E X

QUARTERLY REPORT OF THE ATTORNEY GENERAL FOR THE
PERIOD FROM APRIL 1, 1973 THROUGH JUNE 30, 1973

— A —

ABSENTEE VOTING:

- The absentee voting requirements found in the Federal Voting Rights Act of 1965 are the only requirements necessary to vote absentee for President and Vice-President of the United States 15
- The requirements necessary to vote absentee for all non-presidential officials are found in appropriate State law 15

APPROPRIATIONS:

- A municipality may not make an unrestricted appropriation of funds or property to its Medical Clinic Board 19

— B —

BOARD OF REGISTRARS:

- Absentee voting requirements found in the 1965 Federal Voting Rights Act the the only requirements necessary for Presidential elections 15
- Absentee voting requirements in all non-presidential elections are found in the appropriate State law 15

— C —

CENSUS:

- The methods of preparing a municipal poll list and the methods of taking a municipal census are discussed 7

CITY BOARDS OF EDUCATION:

- The term of office of members of a City Board of Education begins to run from the date of their election or appointment ... 11

CLERKS:

- Clerk's fees, where nolle prosequi is entered at preliminary hearing, are not payable from fine and forfeiture fund of the county 27

CONSTITUTIONAL LAWS:

- The "Fair Trial Tax" is a tax and no constitutional defect is noted 23

COSTS AND FEES:

- The "Fair Trial Tax" is applicable in all courts in all cases except municipal courts where the case is one for violation of a municipal ordinance which is not also a violation of State law 23
- Clerk's fees, where nolle prosequi is entered at preliminary hearing, are not payable from fine and forfeiture fund of the county 27

COURTS:

- The "Fair Trial Tax" is discussed 23

— E —

ELECTIONS:

- The absentee voting requirements for both presidential and non-presidential elections are discussed 15

— H —

HEALTH AND HEALTH DEPARTMENT:

- A municipality may not make an unrestricted appropriation of funds or property to its Medical Clinic Board 19

HOSPITALS:

- A municipality may not make an unrestricted appropriation of funds or property to its Medical Clinic Board 19

— I —

INSURANCE:

- Under laws governing non-profit corporations for establishment of a hospital plan, benefits cannot be paid to a subscriber who receives medical or surgical treatment of a local ailment of the foot from a duly licensed podiatrist 21

— M —

MUNICIPALITIES:

- The methods of preparing a municipal poll list and the methods of taking a municipal census are discussed 7
- The term of office of members of a City Board of Education begins to run from the date of their election or appointment .. 11
- A municipal planning commission may not approve a subdivision of territory unless the map thereof shows a dedication of public streets 13
- No building permit may be issued by a municipality for a subdivision of territory unless the map thereof shows a dedication of public streets 13
- A municipality may not make an unrestricted appropriation of funds or property to its Medical Clinic Board 19
- Method of reinstating a dormant municipal corporation which was created by local legislation on January 25, 1843, was discussed 25

— P —

PENSIONS AND SECURITY:

- The instances in which the Department of Pensions and Security can consider persons eligible for public assistance who would be eligible except for the assessed value of their homestead exceeding \$2,500 9

PODIATRISTS:

- Under laws governing non-profit corporations for establishment of a hospital plan, benefits cannot be paid to a subscriber who receives medical or surgical treatment of a local ailment of the foot from a duly licensed podiatrist 21

POLL TAX AND POLL LISTS:

- The methods of preparing a municipal poll list and the methods of taking a municipal census are discussed 7

PUBLIC OFFICERS:

- The term of office of members of a City Board of Education begins to run from the date of their election or appointment ... 11

— S —**STREETS:**

- A municipal planning commission may not approve a subdivision of territory unless the map thereof shows a dedication of public streets 13
- No building permit may be issued by a municipality for a subdivision of territory unless the map thereof shows a dedication of public streets 13

— T —**TAXATION:**

- The "Fair Trial Tax" is applicable in all courts in all cases except municipal courts where the case is one for violation of a municipal ordinance which is not also a violation of State law 23
- The "Fair Trial Tax" is a tax and no constitutional defect is noted 23

— V —**VOTERS:**

- Absentee voting requirements found in the 1965 Federal Voting Rights Act the the only requirements necessary for Presidential elections 15
- Absentee voting requirements in all non-presidential elections are found in the appropriate State law 15

— Z —**ZONING:**

- A municipal planning commission may not approve a subdivision of territory unless the map thereof shows a dedication of public streets 13
- No building permit may be issued by a municipality for a subdivision of territory unless the map thereof shows a dedication of public streets 13

I N F O R M A L O P I N I O N S

During the period covered by this Quarterly Report of the Attorney General April 1, 1973 through June 30, 1973, the Attorney General rendered the following informal opinions. These informal opinions are not published in the Quarterly Report

Subject	Addressee	Date	File. No.
—A—			
ABC BOARD			
Advertising Souvenir Articles	Paschal P. Vacca	May 30	315
AD VALOREM TAX			
Apartment—Charitable Purposes	Louise S. Champion	April 26	94
Baptist Foundation—Jefferson County	Earl T. Rogers	May 1	274
City or County Property	Louise S. Champion	June 21	94
Housing Corporation—Charitable	Russell Gibson, Jr.	June 5	332
Millage—Adjustment—Section 217, Constitution, as Amended	W. Cooper Green	June 8	43
Property owned by Church	Eugene Thomley	May 21	310
AIR POLLUTION CONTROL			
Municipalities—Ordinances	James W. Cooper	June 18	404
AIRPORT AUTHORITY			
Security Guard	S. C. Stephens	April 20	279
ALABAMA CONSUMERS CREDIT ACT			
Pawn Brokers—Exemption	Lehman J. Lewis	May 16	Bank Dept.

Subject	Addressee	Date	File. No.
ALABAMA COUNCIL ON THE ARTS AND HUMANITIES Insurance—Staff	M. J. Zakrzewski	June 18	334
ALABAMA FORESTRY COMMISSION Land—Disposition	R. L. Snyder	April 6	Alabama Forestry Comm.
ALABAMA HEALTH STUDY COMMISSION Reports—Private Printer	David L. Cusie	May 1	18
ALABAMA HISTORICAL COMMISSION Governor's Mansion	W. Warner Floyd	May 23	Hist. Comm.
ALABAMA LAW ENFORCEMENT PLANNING AGENCY Members—\$25.00 per diem	Robert G. "Bo" Davis	April 11	LEPA
ALABAMA PEACE OFFICERS ANNUITY AND BENEFIT FUND Public Board—Member—Relative State Benefits	B. G. Bryant Mrs. Virginia G. Bryant	April 17 May 30	APO APO
ALABAMA STATE TENURE COMMISSION Jurisdiction	Dr. Paul R. Hubbert	April 30	261
ARCHITECTS Engineer	T. J. Willis	Mar. 16	222
AUCTIONEERS Nonresident	L. Bruce Ables	May 17	353

Subject	Addressee	Date	File. No.
	--B--		
BIBB COUNTY County Officials	Walter Owens	May 21	304
BID LAW Change Orders Error Sealed Bid Skilled Professionals	Frederick P. Whiddon Claude D. Kelley Thomas M. Galloway Bill G. King	April 12 May 25 May 30 May 9	243 Conservation 324 273
BOARDS Public—Member—Relative	B. G. Bryant	April 17	APO
BOARD OF REGISTRARS Voters—Purged	F. E. Frank	Mar. 1	283
	--C--		
CITY OF TALLADEGA Elections	Joe L. Gambrell	June 1	75
CHAMBERS COUNTY Commissioners—Election	Don Horne	April 6	240
CHARITABLE INSTITUTIONS Housing Corporations	Russell Gibson, Jr.	June 5	332
CIRCUIT CLERK Commission—Fees Commission on Judgment	Cleo D. Teague W. R. Draughn	June 15 April 6	340 259

Subject	Addressee	Date	File. No.
COMMISSION ON HIGHER EDUCATION Legislation	Dr. Clanton W. Williams	May 30	Ed. Dept.
COMPETITIVE BID Individuals—Skill	Don B. Long, Jr.	June 5	330
CONSERVATION DEPARTMENT Land—Municipalities	Claude D. Kelley	April 9	Conserv. Dept.
CONSTABLES May not appoint deputy	F. R. Albritton	June 6	325
CONSTITUTION OF ALABAMA 1901 Section 217, as Amended, Millage Adjustment	W. Cooper Green	June 8	43
CORONERS Travel Allowance	David T. Hyde, Jr.	May 4	284
CORPORATION License—Foreign Corp.	Mrs. Mary T. Goodwin	June 11	331
CORRUPT PRACTICE ACT Political Committees Financial Statement	Mabel Amos	May 29	Sec. of State
COSTS AND FEES Counsel—Indigent Cases	Fred E. Zeigler	June 15	Comptroller
COUNTIES Attorney's Fees—Indigent Cases	Fred E. Zeigler	June 15	Comptroller

Subject	Addressee	Date	File. No.
Ad Valorem Tax—Surplus	Charles H. Younger	April 9	255
Chamber of Commerce—County Resources	T. M. Brantley	June 20	241
County Attorney—Member of Legislature	John S. Casey	May 21	301
Deputy Sheriff—Bond	W. W. Rayburn	May 25	District Attorney
Diesel Fuel	Byrd R. Latnam	June 12	338
Deputy Sheriff—Medical Bill	John E. Adams	May 31	228
Disaster Area	J. C. Sullivan	June 6	328
Disaster Area	Tom Gloor	June 5	322
Funds—Inland Docks	E. Mark Ezell	184	Mar. 30
Funds Non-Profit Corp.	James H. McClendon	May 10	265
Garbage Collection	John M. Fleming	June 1	298
Gross Receipts	George Nancarrow	April 5	12
Mineral Rights	Hiram Pitts	May 22	202
Officials—Salary	Roy H. Coshatt	June 6	326
Property Reappraisal Act 160, 1971	Winston Stewart	April 26	22
Retirement System—Employees	A. W. Steineker, Jr.	June 15	Exam. of Pub. Accts.
Revenue Sharing Funds	Sam Gantt, II	June 28	350
Road Construction—Method of Paying Sheriff & Deputies—Officers Training School	Maury Friedlander	May 31	9
	Fred L. Huggins	April 16	268
Tax Filing & Collecting	Ben Reeves	May 16	313
Travel Expenses	John Hollis Jackson, Jr.	June 29	349
COUNTY BOARD OF EDUCATION			
County Superintendent—Term of Office	W. H. Stewart, Jr.	June 11	336

Subject	Addressee	Date	File. No.
District School Tax—Election Ballots	John R. Hargis	April 16	28
District School Tax—Spending	Ray Burgess	May 3	289
Gasoline—Contract	Cullman County Bd. Of Education	June 26	348
Non-Tenure Teacher	Sam W. Jones	May 15	82
Outgoing Superintendent of Education—Incoming Supt.	E. C. Riddle	June 25	343
Real or Personal Property	Dr. LeRoy Brown	June 29	Ed. Dept.
Salary—Coaches, Teachers, Etc.	Tommy D. Brown	May 25	274
COUNTY COURTS			
Court of Record	J. Foy Guin, Jr.	April 10	252
COUNTY SUPERINTENDENT OF EDUCATION			
Term of Office—70 Years of Age	W. H. Stewart, Jr.	June 11	336
COURT REPORTER			
Fees Non-Support Cases	Roger A. Prestwood	May 24	302
CRIMINAL LAW			
Attorney's Fees—Indigent Cases	Fred E. Zeigler	June 15	Comptroller
Persons under 18	David M. Enslin	June 11	40
--D--			
DALE COUNTY			
Sheriff's Salary	Henry B. Steagall, II	May 4	291

Subject	Addressee	Date	File. No.
DEED FILING TAX			
Mortgage—Security for Bond	J. Paul Meeks	June 15	312
DEED TAX			
Lease to Third Party	Myrtle Green	June 21	193
Property owned by Man and Wife Jointly	Bernard A. Reynolds	May 21	191
DEPARTMENT OF ARCHIVES AND HISTORY			
Royalties—General Fund	Milo B. Howard, Jr.	April 11	Archives & History Dept.
DEPARTMENT OF CORRECTIONS			
Fishing Permits	L. B. Sullivan	June 25	352
DEPARTMENT OF INSURANCE			
Fines—Unlicensed Agents	John G. Bookout	June 28	Insurance Dept.
DEPUTY SHERIFFS			
Bond	W. W. Rayburn	May 25	District Attorney
DEPUTY TAX ASSESSOR			
County Employee	Edna Boutwell	June 29	355
DISTRICT ATTORNEYS			
Supernumerary Status	R. Clarence Williams	May 21	District Attorney
	—E—		
EMPLOYEES RETIREMENT SYSTEM			
Death Benefits	E. L. Bottoms	June 29	373

Subject	Addressee	Date	File. No.
EMPLOYER AND EMPLOYEE			
Persons over 70 years of age	T. W. Thagard, Jr.	April 17	260
	—F—		
FIREWORKS			
Sheriff Laws—Enforcement	Robert L. Turner	Mar. 30	282
	—H—		
HIGHWAYS			
Road Construction—Method of Paying	Maury Friedlander	May 31	9
HISTORIC CHATTAHOOCHEE COMMISSION			
Monument—State of Georgia	Douglas Clare Purcell	June 13	339
HOSPITAL BOARDS			
Diesel Fuel	Roland Cooper	June 14	27
Terminated Employees	Lee M. Thomas	June 11	337
HOUSING AUTHORITY			
Separate and Apart	Nathan F. S. Porter	May 7	286
	—I—		
INFANTS			
Persons under 18	David M. Enslin	June 11	40
	—J—		
JEFFERSON COUNTY			
Board of Health—One Cent Sales Tax	Richard Dominick	June 27	347

Subject	Addressee	Date	File. No.
JUDGES OF PROBATE			
Instrument may be Recorded	R. J. Stenbridge	April 10	258
Property owned by Man and Wife Jointly	Bernard A. Reynolds	June 21	191
JUNK YARDS			
Items—To be Reported	Reynolds Kelley	May 9	292
JUVENILES			
Detention Home	C. S. Whittelsey	June 1	321
	—L—		
LAW ENFORCEMENT OFFICERS			
Applicants—Not over 45	Walker Hobbie, Jr.	April 18	262
LEGAL RESIDENCE			
Residence Abandoned	Richard L. McBride	Mar. 16	38
LEGISLATURE			
Member—County Attorney	John S. Casey	May 21	301
LICENSING			
License Tax Fund—Surplus	Harold Jordan	May 31	158
Vessel and Motor Boat	Mrs. James L. Albert	June 5	21
	—M—		
MARRIAGE LICENSE			
Blood Test	Thomas S. Hosty	May 4	Public Health Dept.
MAYORS			
Warrant—City Court	Kenneth T. Fuller	June 7	333

Subject	Addressee	Date	File. No.
MINI CODE			
Fees—Refund	Lehman J. Lewis	April 27	State Bank. Dept.
Tax Filing & Collecting	Ben Reeves	May 16	313
MOBILE COUNTY			
Clerk—Court of General Sessions	Doyle W. Chambers	April 24	294
Bailiff—Retirement System	Mylan R. Engel	April 25	95
MONTGOMERY AVIATION AUTHORITY			
Gasoline—Dannelly Field	J. Donald Reynolds	June 20	341
MONTGOMERY COUNTY			
Employees—Retirement	M. S. Butler	April 16	270
MORTGAGE TAX			
Banks	Flora L. Stewart	May 21	205
Financial Statement	Robert H. Kirksey	May 19	290
MORTGAGE FILING TAX			
Mortgage—Security for Bond	J. Paul Meeks	June 15	312
Open end Mortgage	Myrtle Green	May 25	193
Tax Due—Indebtedness	J. Paul Meeks	May 22	312
MOTOR BOATS			
Licensing	Mrs. James L. Albert	June 5	21
MOTOR VEHICLES			
Hauling of Lime	Conrad M. Fowler	May 8	277
MUNICIPALITIES			
Ad Valorem Taxes—Annexed Property	John M. Franklin	May 4	129

Subject	Addressee	Date	File. No.
Ad Valorem Tax Erroneously Collected	Jerry F. Maples	May 8	299
Air Pollution—Ordinances	James W. Cooper	June 18	404
Annexing of Territory	Roy H. Phillips	April 2	148
Appeals to Circuit Court from Recorder's Court	L. E. Gosa	June 15	335
Contract—Signing Thereof	Chalmers Bryant	May 28	314
Councilman—Planner	Charles L. Murphree	June 5	346
Councilman—State Employee	Farris Southern	June 6	329
Councilman—Utility	Edward V. Philpot	April 6	269
Curfew Law	Harvey E. Maxwell, Sr.	April 12	278
Disposal of Solid Waste	Leonard E. Clements, Jr.	April 6	256
Federal Uniform Relocation Act	Charles H. Morris, III	May 29	342
Fire Protection—Contract	William D. Latham	April 20	178
Hospital Insurance	William H. Brigham	May 28	318
Industrial Development Board—Public Athletic Boards	J. V. Mince	May 7	287
Keys—Councilmen—Clerk's Office	Charles H. Simison	Mar. 28	201
License Tax Funds—Surplus	Harold Jordan	May 31	158
License Tax—Lake	Jack Bains	April 23	305
Municipal Utilities Board	Buford L. Cryar	April 12	57
Officer—Stockholder of Corp.	Drayton Pruitt, Jr.	Mar. 23	180
Police Officers—Attorney's Fees	J. V. Mince	May 7	287
Civil Suits			
Private Driveways	Harold T. Jordan	May 25	158
Recorder's Court	Otis MacMahon	April 20	District Attorney
Roads—Annexation	A. N. Roberts	May 18	288
School Tax	George Nancarrow	April 5	12

Subject	Addressee	Date	File. No.
Sealed Bid	Thomas M. Galloway	May 30	324
Skilled Professionals—Bid Law	Bill G. King	May 9	273
Utility Board—Refund	E. E. Cobb	May 10	303
Water & Sewer Board—Water Mains	W. Warren Aaron	June 25	345
Water Works	H. B. Espy	Mar. 30	177
Youth Offender's Center	J. M. Breckenridge	May 14	306
—P—			
PARI-MUTUEL BETTING Constitutionality	Joe Dozhby, Esquire	May 16	296
PAWN BROKER Consumers Credit Act	Lehman J. Lewis	May 16	Banking Dept.
PIKE COUNTY Deputy Tax Assessor—County Employee	Mrs. Edna Boutwell	June 29	355
POLICE OFFICERS Doctrine of "hot pursuit"	Houston Donaldson	May 18	309
POLITICAL COMMITTEES Financial Statement	Mabel Amos	May 29	Sec. of State
PROBATE JUDGE Tax due on Mortgage	J. Paul Meeks	May 22	312
Tax Filing & Collecting	Ben Reeves	May 16	313
PUBLIC EMPLOYEES Dismissed—Reinstated	Charles Nice	April 2	247

Subject	Addressee	Date	File. No.
PUBLIC OFFICERS			
May not Sign Bail Bonds	Grover L. Poole	April 30	275
PUBLIC SAFETY DEPARTMENT			
Incompetent Driver	Eldred C. Dothard	May 10	Public Safety
PUBLIC UTILITIES			
Persons Furnishing Water	Carl L. Evans	April 11	271
—R—			
REAL ESTATE COMMISSION			
Corp. License Foreign Corp.	Mary T. Goodwin	June 11	331
Nonresident Auctioneers	L. Bruce Ables	May 17	353
Qualified Program—Salesman	Mary T. Goodwin	June 11	331
REGIONAL PLANNING COMMISSION			
Expenses of Member	Sam F. Reynolds, Jr.	June 25	351
RETIREMENT SYSTEM			
County Agency Withdrawals	A. W. Steineker, Jr.	June 15	Exam. of Pub. Accts.
REVENUE, DEPARTMENT OF			
Officials—Salary	Roy H. Coshatt	June 6	326
Reappraisal Program—Amount Paid by Department	Charles A. Boswell	May 23	Revenue

Subject	Addressee	Date	File. No.
	—S—		
SCHOOLS			
Ad Valorem Tax—Surplus	Charles H. Younger	April 9	255
Gross Receipts of School Tax	George Nancarrow	April 5	12
Municipal Purposes			
SECRETARY OF STATE			
Financial Statement—Political Committees	Mabel Amos	May 29	Sec. of State
SHERIFFS			
Feeding of Prisoners	Robert L. Turner	May 25	282
Laws—Sale of Fireworks	Robert L. Turner	Mar. 30	282
Special Legislation—Fees—	J. P. Faulk, Jr.	May 9	263
Feeding of Prisoners			
STATE OF ALABAMA			
Persons over 70	T. W. Thagard, Jr.	April 17	260
STATE AGENCIES			
Public Employee Dismissed—Reinstated	Charles Nice	April 2	247
STATE AND STATE DEPARTMENTS			
Error in Transcription of Unit Bid Price	Claude D. Kelley	May 25	Conservation
STATE BANKING DEPARTMENT			
State Bank Merges with National Bank	Robert I. Gulledege	April 6	State Bank Dept.
Travel Expenses of Consultant	Lehman J. Lewis	April 12	State Bank Dept.
STATE BOARD OF EDUCATION			
Member—Daughter of	Don Horne	May 4	240

Subject	Addressee	Date	File. No.
Son of Member	Don Horne	May 4	240
Superintendent's Office—Term of Employees	Jack Sneed	May 7	293
Teachers—Sick Leave	George G. Eden	May 11	280
Vacation—Employees	Henry Sparks	May 15	300
STATE FORESTRY COMMISSION			
Diseased Trees—Cutting and Spraying	C. S. Moody	May 23	Forestry
STATE INSTITUTIONS			
Change Orders	Frederick Whiddon	April 12	243
STATE BOARD OF PHYSICAL THERAPY			
Power to License—Examination	Patricia Peinhardt	April 16	Physical Therapy Board
SUPERINTENDENT OF EDUCATION			
Outgoing Superintendent—Incoming Superintendent	E. C. Riddle	June 25	343
—T—			
TALLADEGA COUNTY			
Coroner—State Retirement Plan	G. Kyser Leonard	April 11	327
TAX ASSESSOR			
Apartments—Charitable Purposes Ad Valorem Tax	Louise S. Champion	April 26	94

Subject	Addressee	Date	File. No.
Commission—Assessment of Ad Valorem Tax on Motor Vehicles	W. V. Lyerly	June 18	365
Property Leased by City or County	Louise Champion	June 21	94
Reassessment of Property	John M. Puryear	May 7	281
TAX COLLECTORS			
Commission—Assessment of Ad Valorem Tax on Motor Vehicles	W. V. Lyerly	June 18	365
TAXATION			
Ad Valorem Tax—Surplus	Charles H. Younger	April 9	255
Property owned by Church	Eugene Thomley	May 21	310
TEACHER TENURE			
Assistant Principal	Paul R. Hubbert	June 22	261
Employment—Part of a Year	Jim Boyd	June 1	207
TEACHERS			
Employment—Part of a Year	Jim Boyd	June 1	207
Tenure Commission—Jurisdiction	Paul R. Hubbert	April 30	261
	—V—		
VETERANS			
Disability—Title 60, Section 82 (5), Code	Walter C. Head, Jr.	April 5	Veterans Affairs
	—W—		
WAGE COMMISSION			
Prevailing Wage in each Area	J. J. Pierce	Mar. 21	24

Subject	Addressee	Date	
WALKER COUNTY Law Enforcement Fund	Grover McMillan	June 18	364
WATER IMPROVEMENT COMMISSION Extension of Opinion rendered June 26, 1972—Distribution of Funds	Charles Grainger	Feb. 20	175
Non-voting Members Plans and Specifications— Professional Engineer	James W. Warr William T. Manasco	Jan. 12 June 5	Water Imp. Comm. 323
WATER WORKS AND SEWER BOARD Private Ownership of Water Mains	W. Warren Aaron	June 25	345